1943

File No. Land Improvement Scheme II/43

Legal Department-

B **BRANCH**

Subject:— Rules and Notifications under the Bombay Land Improvement Schemes Act 1942

P/6/E

File No. Land Improvement Schemes II/43

Gen. 194 a.

101-13

R.I.No. 436 dt. 15-1-43.

Office of the R.L.A.

Para 2 of Secretary, R.D.'s note at page 54.- It is not necessary to make a rule for the purpose of bring ing the works, either undertaken or completed before the Act, within its purview. The object can be achieved by issuing executive instructions for making a shheme is s o made such works will form part of a statutory scheme and their maintenance, repair and use will then be regulated in accoradance with the provisions of Chapter IV of the Act It may be pointed out that the scheme prepared in respectof these works may mention as their object the matters referred to in clauses (i) to (viii) of sub-section (1) of section 4 of the Act but it is not necessary that the draft scheme prepared in respect of the completed works should mention those works as works to be carried out under the scheme, as under clause (iv) of sub-section (2) of section 4 the works if any , to be carried out under the scheme have to be mentioned. There will be therefore no difficulty in including the completed works in a scheme prepared under the Act. Rule 3 of the R.D. draft on page 60 ante has therefore been omitted.

2. Para 3 of Secretary, R.D.'s note regarding new rules 6 and 7 , page 54.- It is proposed that the Inquiry Officer shall be required to ascertain whether or not the owners consent to the making of the scheme .This does not appear feasible. Under section 4 a scheme may be prepared for the matters specified therein. Under section 5 the scheme may be approved by the Board and published . Under sub-section (1) of section 5 and Inquiry Officer is appoint

ed for the scheme. Under section 6 the Inquiry Officer is to hear and decide claims or objections submitted under section 5(2) and such other matters as may be required to be heard and decided by or under the provisions of the Act. After deciding disputed claims, the Inquiry Officer is to make report under section 8 containing the particulars specified in sub-section (1). Under sub-section (2) the report is to be published. Under sub-section (3) a person aggrieved by the report may appeal to the Board. Then under section 9(1) on the receipt of the report after deciding the appeals made under sub-section (3) of section 8 and making such inquiry as it may think fit, the board may sanction the scheme if a certain percentage of the owners consent to the making of the scheme. Rule 5(2) of the draft rules suppleed by the R.L.A. along with R.L.A.'s opinion No. 10329, dated 28th December 1952 provided that the notice of the publication of the Inquiry Officer's report shall also require him (the owner) to intimate his consent. It does not appear that the owner can be called upon at a very early stage of the proceedings before the Inquiry Officer in enquiry and report to give his consent to the schme, for, at that stage there is no complete picture of the scheme to which he can give consent, Rules 6 and 7 will not, therefore, be in order and have been omitted. The amendment suggested in Form II is consequential to this and has therefore also been omitted. The view taken in para 3 of R.D. office note (pp. 51-52) ante is correct. There is no objection to retaining sub-rule (2) of rule 5 in R.L.A.'s draft at page 33 ante.

3. Para 4 of Secretary, R.D.'s note at page 55.-

Rule 11 of the R.D. draft (revised draft rule 8) on page 62

ante, as slightly amended, is in order.

4. Para 5 of Secretary, R.D.'s note at page 55.- The new rule proposed by Secretary, R.D. is still open to objection. Although the new rule itself now provides for the authority to determine the increase in the rent and the enquiry which is to be held by such authority and the factors to be taken into consideration in determining it, it does not comply with section 18, which requires the amount of the increase of rent and the conditions subject to which it is to be increased - to be prescribed in the rule itself.

5. Para 6 of Secretary, R.D.'s note at page 55.- The rorm, as amended, is in order. Consistently with the retention of rule 5(2) in the revised draft on page 62 ante retention of rule 5(2) in the revised draft on page 62 ante the form has been amended to provide that the owner of any land included in the scheme is required to intimate to the Board whether he consents to the making of the scheme or not.

Sd/-

P.N.MOOS.

dt/-

Remembrancer of Legal Affairs.

U.R. to R.D. No. 612 dated the 25th January 1943.

VVK. 16/7/56/

5C.

Office of the R.L.A.

I agree to the omission of rule 5(2) renumbering of rule 5(3) as 5(2) and the consequential alteration in Form 3.

2. To achieve the object which Secretary , R.D. has in view a rule has been prepared for determining the extent of enhancement of rent. R.D. should verify whether the rule is suitable. When next amending the Act, R.D. is advised to consider amending sections 18 and 24(2)(vi) suitably

Id/- P.N.M.
dt/- 3/2/

Remembrancer of Legal Affairs.

U.R. to R.D. No. 844 , dated the 3rd February 1943.

VVK. 16/7/56/

5C.

Office of the R.L.A.

Revised draft notification are sent herewith The draft notifications, in so far as they provide that the Board shall appoint its own Secretary, merely repeat the provisions of the last sentence of section 3(1) of the Act; provision to that effect has therefore been deleted in the revised draft notifications.

Sd/- M.K.Dravid.

For Remembrancer of Legal Affairs.

U.R. to R.D. No. 2067 , dated the 20th March 1943.

VVK. 16/7/56/

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NOTIFICATION .

Revenue Department -

Bombay Castle, March 1943.

Bombay Land Imporvement Scheme Act, 1942.

No. 1884/39(a) .- In exercise of the powers conferred by sub-section (1) of section 3 of the Bombay Land Imporvement Schemes Act, 1942 (Bom. XXVIII of 1942 the Government of Bombay is pleased to constitute in the Northern Division a Board consisting of

(1) the Commissioner, Northern Division,

(2) the Conservator of Forests, Northern - Circle, and

(3) the Derector of Agriculture,

for the purpose of carrying out the provisions of the said Act.

By order of the Governor of Bombay ,

Secretary to Government.

VVK. 16/7/56/
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